

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

BRIAN ISIAH HOLMES, JR.,

Plaintiff,

:

v.

Case No. 2:23-cv-3147
Judge Sarah D. Morrison
Magistrate Judge Peter B.
Silvain, Jr.

OHIO DEPARTMENT OF
REHABILITATION AND
CORRECTIONS, *et al.*,

:

Defendants.

ORDER

On November 30, 2023, the Magistrate Judge issued a Report and Recommendation recommending that Plaintiff Brian Isiah Holmes, Jr.'s Amended Complaint be dismissed in part for failure to state a claim. (ECF No. 8.) Specifically, His Honor recommended that Count One be dismissed in its entirety, and that Count Two be dismissed to the extent it seeks money damages against Defendants in their official capacities and asserts a § 1983 claim based on a violation of ODRC policy. (*Id.*) On December 11, Mr. Holmes filed a Response. (ECF No. 10.)

If a party objects within the allotted time to a report and recommendation, the Court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

In his Response, Mr. Holmes asserts that “Magistrate Judge Silvain is absolutely correct in his analysis, and [Mr. Holmes] agrees with his judgment.” (*Id.*) Thus, the Court does not interpret the Response as an objection. With no other objection timely filed, the Court **ADOPTS** and **AFFIRMS** the Magistrate Judge’s Report and Recommendation.

IT IS SO ORDERED.

/s/ Sarah D. Morrison

SARAH D. MORRISON
UNITED STATES DISTRICT JUDGE